

MINUTES

ALCOHOL AND TOBACCO COMMISSION

JUNE 5, 2007

CALL TO ORDER/NOTING OF QUORUM

Chairman Heath called the meeting to order and noted the quorum and the attendance. Present were Vice Chairman Johnson, Commissioner Sturtz and Commissioner Guthrie. Also in attendance was Superintendent Huskey.

Carol Tietz of Bose McKinney and Evans, John Barnett, Bart Herriman, Jeff McKean and Mark Webb were present as observers.

DISPOSITION OF MINUTES

Commissioner Sturtz moved to approve the minutes that were submitted for the May 15, 2007 meeting. Motion seconded by Vice Chairman Johnson and it was unanimously approved.

HEARING JUDGE'S RECOMMENDATIONS

PAD FORMS – Vice Chairman Johnson moved to approve the parties agreed disposition forms that were submitted for the June 5, 2007 meeting. Motion seconded by Commissioner Guthrie and it was unanimously approved.

CONSIDERATION OF APPLICATIONS

I incorporate by reference these lists of permits for renewal, which have been recommended by local boards and reviewed by said staff with the authority of the Commission, and hereby move for approval of same and the inclusion of these lists as part of the minutes by exhibit. Motion seconded by Commissioner Guthrie and it was unanimously approved.

I incorporate by reference these lists of permit applications for a new permit or application for changes in location or ownership or both of existing permits, which have been recommended by local boards and reviewed by at least two Commissioners and hereby move for approval of same and inclusion of these lists as part of the minutes by exhibit. Motion seconded by Commissioner Guthrie and it was unanimously approved.

I incorporate by reference these lists of permit applications for catering and hereby move for approval of same and the inclusion of these lists as part of the minutes by exhibit. Motion seconded by Commissioner Guthrie and it was unanimously approved.

I incorporate by reference these lists of permits to be placed in escrow for not more than one year, which have been reviewed and recommended by a Commissioner as appropriate for first or second year escrow and hereby move for approval of same and the

inclusion of these lists as part of the minutes by exhibit. Motion seconded by Commissioner Guthrie and it was unanimously approved.

Three hundred fourteen (314) renewals approved, one hundred six (106) new and/or transfer permits approved, six (6) permits approved for catering, six (6) permits approved for first year escrow, three (3) permits approved for second year escrow, six (6) permits approved for third year escrow, and three (3) permit approved for fourth year escrow.

RENEWAL LETTERS AND WAIVER OF FEES

Vice Chairman Johnson moved to approve the renewal letters and the waiver of fees for letters of extension for the preceding weeks. Motion seconded by Commissioner Sturtz and it was unanimously approved.

APPLICATIONS FOR DISCUSSION

RR91-18901 SAYLER'S BAR AND GRILL – Chairman Heath noted this is a type 209 renewal with the local board voting three (3) to one (1) to approve.

Commissioner Guthrie moved to uphold the local board's recommendation and approve this permit for only one year, so the issues of food sales and noise at the establishment can be addressed. Motion seconded by Vice Chairman Johnson and it was unanimously approved.

RR71-03646 ABC OF SOUTH BEND, INC., d/b/a SMOKIN ADDIES – Chairman Heath noted this is a type 210 transfer of ownership with the local board voting four (4) to zero (0) to approve.

Commissioner Guthrie moved to uphold the local board's recommendation and approve the transfer. Motion seconded by Vice Chairman Johnson and it was unanimously approved.

DL71-23158 MCCLURE OIL CORPORATION – Chairman Heath noted this is a new type 115 application with the local board voting three (3) to one (1) to approve.

Commissioner Guthrie moved to uphold the local board's recommendation and approve the new permit. Motion seconded by Commissioner Sturtz and it was unanimously approved.

DL20-22964 ELREBA CORPORATION, d/b/a ELKHART CIGARETTE OUTLET – Chairman Heath noted this is a new type 104 application with the local board voting four (4) to zero (0) to disapprove.

Commissioner Guthrie stated the local board declared this applicant does not meet the grocery store definition.

Commissioner Guthrie moved to uphold the local board's recommendation and deny the new permit. Motion seconded by Vice Chairman Johnson and it was unanimously approved.

DL20-23176 GOOD OIL COMPANY, INC., d/b/a GOOD TO GO – Chairman Heath noted this is a new type 115 application with the local board voting three (3) to one (1) to disapprove.

Commissioner Guthrie stated the local board declared a lack of need and desire by the community for these services.

Commissioner Guthrie moved to uphold the local board's recommendation and deny the new permit. Motion seconded by Commissioner Sturtz and it was unanimously approved.

RR49-04575 3535 WEST, INC., d/b/a CLUB VENUS – Chairman Heath noted this is a type 210 renewal application with the local board voting two (2) to one (1) to disapprove.

Commissioner Guthrie moved to remand this renewal to the local board due to the fact that no audiotape was made of the local board meeting. Motion seconded by Vice Chairman Johnson and it was unanimously approved.

DL02-23151 DUPONT PITSTOP, INC. – Chairman Heath noted this is a new type 115 application with the local board voting four (4) to zero (0) to disapprove.

Commissioner Guthrie stated the local board declared a lack of need and desire by the community for these services.

Commissioner Guthrie moved to uphold the local board's recommendation and deny the new permit. Motion seconded by Commissioner Sturtz and it was unanimously approved.

RR35-20428 MATT D. MACHALL ENTERPRISES – Chairman Heath noted the location of this type 209 permit was annexed into the city limits and needs to be converted to a type 210 permit.

Commissioner Guthrie moved to approve the conversion. Motion seconded by Vice Chairman Johnson and it was unanimously approved.

RR41-92093 JFS PUB, INC., d/b/a STEW'S PUB - Chairman Heath noted the location of this type 209 permit was annexed into the city limits and needs to be converted to a type 210 permit.

Commissioner Guthrie moved to approve the conversion. Motion seconded by Commissioner Sturtz and it was unanimously approved.

DL49-22918 MAC'S CONVENIENCE STORES, LLC – Chairman Heath noted this is a new type 115 application with the local board voting two (2) to one (1) to disapprove.

Commissioner Guthrie stated the local board declared there is no evidence to support that this establishment is a grocery store and there is no need or desire in the community for these services.

Commissioner Guthrie moved to uphold the local board's recommendation and disapprove the new permit. Motion seconded by Vice Chairman Johnson and it was unanimously approved.

DL49-22920 MAC'S CONVENIENCE STORES, LLC – Chairman Heath noted this is a new type 115 application with the local board voting two (2) to one (1) to approve.

Commissioner Guthrie moved to uphold the local board's recommendation and approve the new permit. Motion seconded by Commissioner Sturtz and it was unanimously approved.

RR02-20004 EMILIA DEL CARMEN RUIZ, d/b/a CENTRO-AMERICA RESTAURANT – Chairman Heath noted this is a type 112 application with the local board voting four (4) to zero (0) to disapprove.

Commissioner Guthrie stated this permittee has had numerous violations and did not appear at the local board meeting.

Commissioner Guthrie moved to uphold the local board's recommendation and deny the renewal. Motion seconded by Vice Chairman Johnson and it was unanimously approved.

DK41-23092 GASAMERICA SERVICES, INC. - Chairman Heath noted this is a new type 115 application with the local board voting two (2) to one (1) to disapprove.

Commissioner Guthrie moved to remand this new application to the local board due to the fact that no audiotape was made of the local board meeting. Motion seconded by Commissioner Sturtz and it was unanimously approved.

INACTIVE FILES

Vice Chairman Johnson moved to make twenty-nine (29) permits inactive. Six (6) permits is subject to auction and twenty-three (23) permits are not subject to auction. Motion seconded by Commissioner Sturtz and it was unanimously approved.

RR61-04847 AVALON, INC. - Vice Chairman Johnson stated this permit was made dead on 3-20-07.

Vice Chairman Johnson moved to reactivate this permit, subject to paying renewals and any taxes or fines that are due. Motion seconded by Commissioner Guthrie and it was unanimously approved.

DL06-18933 PAYLESS LIQUORS, INC. – Vice Chairman Johnson stated this permit was made dead on 12-5-06.

Vice Chairman Johnson moved to reactivate this permit, subject to a transfer of location being filed quickly and put into use. Motion seconded by Commissioner Guthrie and it was unanimously approved.

RR18-01112 JERSEY'S SPORTS BAR & GRILL & DAIQUIRI BAR, LLC - Vice Chairman Johnson stated this permit was made inactive on 11-4-06.

Vice Chairman Johnson moved to reactivate this permit due to confusion with mailing address of permittee. Motion seconded by Commissioner Guthrie and it was unanimously approved.

OLD BUSINESS

No Old Business

NEW BUSINESS

No New Business

POLICY DETERMINATIONS

No Policy Determinations

ANNOUNCEMENTS

No Announcements

ADJOURNMENT

Commissioner Sturtz moved to adjourn the meeting. Motion seconded by Commissioner Guthrie and it was unanimously approved.

Approved this _____ day of _____, 2007.

DAVE HEATH, CHAIRMAN

DAVID JOHNSON, VICE CHAIR

DALE STURTZ, COMMISSIONER

FRANK GUTHRIE, COMMISSIONER